



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,820	03/27/2000	Fu Jie Huang	MCS-101-99	4653
27662	7590	10/25/2004	EXAMINER	
LYON & HARR, LLP 300 ESPLANADE DRIVE, SUITE 800 OXNARD, CA 93036			KIBLER, VIRGINIA M	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action**Application No.**

09/536,820

Applicant(s)

HUANG ET AL.

Examiner

Virginia M Kibler

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: Note the attached Interview Summary (PTO-413)

Art Unit: 2623

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/25/04 have been fully considered but they are not persuasive.

Summary of Applicants' Argument: The Examiner must interpret the term "face pose" as used in the rejected claims to mean the pitch, roll, and yaw angles that describe the position of a person's head. The Examiner stated in the Final Office Action that "the features upon which applicant relies (i.e., pitch, roll, and yaw angles) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims." Applicants argue the Examiner is misapplying the applicable law on the subject and cites:

"A term used in the claims may be given a special meaning in the description." (MPEP Section 608.01(o), Eighth Edition, February 2003 Revision); and

"When the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art. *In re Zeltz*, 893 F.2d 319, 13 USPQ2d 1320 (Fed. Cir. 1989)" (MPEP Section 2173.05(a), Eighth Edition, February 2003 Revision).

Applicants' have expressly stated in the application that:

“the term “pose” or “face pose” will refer to the particular pitch, roll and yaw angles that describe the position of a person’s head” (Page 3, lines 28-29).

Examiner’s Response: During patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification,” (See MPEP 2111).

“Reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from ‘reading limitations of the specification into a claim,’ to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim (*In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)” (See MPEP 2111).

The “PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.” The broadest reasonable interpretation of the claims must be consistent with the interpretations that those skilled in the art would reach (See MPEP 2111). The Examiner has considered numerous publications (IEEE, ACM, SPIE, etc.) for face recognition that define a “face pose” by only one rotation angle and refer to “3D face pose” when using three angles to describe the position of a person’s head. Therefore, the Examiner interprets “face pose” to mean any angle (i.e., pitch, roll, or yaw) as consistent with the interpretations that those skilled in the art of face recognition would reach.

Art Unit: 2623

Contact Information

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia M Kibler whose telephone number is (703) 306-4072.

The examiner can normally be reached on Mon-Thurs 8:00 - 5:30 and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Virginia Kibler can be reached on (703) 306-4072. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Virginia Kibler

Virginia Kibler
10/20/04

MEHRDAD DASTOURI
PRIMARY EXAMINER

Mehrdad Dastouri